

## AMENDMENT TO THE CLAIMS

Claims 1-41 (Cancelled)

42. (Original) An apparatus for providing backing for U-shaped studs in a wall, said backing apparatus comprising:

a first backing member having a first end, a second end, a top, a bottom, a first side and a second side; wherein, the second end of the first backing member is longitudinally spaced from the first end of a second backing member;

the second backing member having a first end, a second end, a top, a bottom, a first side and a second side; wherein, the second end of the first backing member is longitudinally spaced from the first end of the second backing member;

a hinge operatively attached to said first side of said first and second backing members for permitting said second backing member to pivot with respect to the first backing member between a first position wherein the longitudinal axis of said first and second backing members are aligned in the same plane and a second position whereby the longitudinal axis of the first and second backing members are not aligned in the same plane, whereby said first backing member can be placed between a first and second adjacent upright U-shaped stud, the second backing member pivoted with respect to the first backing member to the second position, and then pivoting said second backing member to a first position thereof to be disposed between said second upright U-shaped stud and a third upright U-shaped stud whereby said second end of said first backing member is adjacent to and on one side of the second upright U-shaped stud and the first

end of the second backing member is adjacent to and on the other side of said second upright U-shaped stud; and

said second backing member having a vertical groove in said first side thereof for receiving a flange of the second upright U-shaped stud, said groove being at least partially covered by said hinge when the first and second backing members are in the first position thereof.

43. (Original) The apparatus of claim 42 including:

a third backing member having a first end, a second end, a top, a bottom, a first side and a second side;

said third backing member having a vertical groove in the first side thereof for receiving a flange of a U-shaped stud, said groove being at least partially covered by said hinge when the second and third backing members are in the first position thereof; and

a second hinge operatively attached to said first side of said second and third backing members for permitting said third backing member to pivot with respect the second backing member between a first position wherein the longitudinal axis of said second and third backing members are substantially in the same plane and a second position whereby the longitudinal axis of the second and third backing members are not in the same plane, whereby said second backing member can be placed between said second and third adjacent upright U-shaped studs, the third backing member pivoted with respect to the second backing member to the second position, and then pivoting said third backing member to the first position thereof to be disposed between said third upright U-shaped stud and a fourth upright U-shaped stud closer to said third upright U-shaped stud

than to said second upright U-shaped stud, whereby said second end of said second backing member is adjacent to and on one side of the third upright U-shaped stud and the first end of the third backing member is adjacent to and on the other side of said third upright U-shaped stud.

44. (Original) The apparatus of claim 43 wherein each of said backing members has a vertical groove in said first side thereof adjacent each end thereof whereby a flange of an upright U-shaped stud can extend therein.

45. (Original) The apparatus of claim 42 wherein each of said backing members has a vertical groove in said first side thereof adjacent each end thereof whereby a flange of an upright U-shaped stud can extend therein.

46. (Original) The apparatus of claim 45 including a horizontal member extending between said first and second upright U-shaped studs and on top of said first backing member, said horizontal member having a cross-section like one of said studs including a pair of flanges and wherein each of said backing members has a horizontal groove in said first side thereof adjacent the top thereof whereby a flange of said horizontal member can extend therein.

47. (Original) The apparatus of claim 42 including a horizontal member extending between said first and second upright U-shaped studs and on top of said first backing member, said horizontal member having a cross-section like one of said studs including a pair of flanges and wherein each of said backing members has a top

horizontal groove adjacent the top and a bottom horizontal groove adjacent the bottom in said first side thereof whereby a flange of said horizontal member can extend therein.

48. (Original) The apparatus of claim 47 including a top backside backing member substantially identical to said first backing member, said backside backing member being disposed between said first and second upright U-shaped studs and one flange of said horizontal member extends into the top horizontal groove of the first backing member and the other flange of said horizontal member extends into the top horizontal groove of the backside backing member.

49. (Original) The apparatus of claim 48 including a bottom backside backing member substantially identical to said first backing member, said backside backing member being disposed between said first and second upright U-shaped studs and one flange of said horizontal member extends into the bottom horizontal groove of the first backing member and the other flange of said horizontal member extends into the bottom horizontal groove of the bottom backside backing member.

50. (Original) The apparatus of claim 47 including a bottom backside backing member substantially identical to said first backing member, said backside backing member being disposed between said first and second upright U-shaped studs and one flange of said horizontal member extends into the bottom horizontal groove of the first backing member and the other flange of said horizontal member extends into the bottom horizontal groove of the backside backing member.

51. (Original) The apparatus of claim 42 wherein said hinge is comprised of a flexible sheet.

52. (Original) The apparatus of claim 51 wherein said sheet is comprised of metal.

53. (Original) The apparatus of claim 42 wherein said hinge is comprised of a flexible metal sheet having projections therein extending into said backing members for holding the flexible sheet metal hinges attached to said first and second backing members.

54. (Original) The apparatus of claim 42 wherein said backing members are constructed of wood.

55. (Original) The apparatus of claim 42 wherein sheet rock is attached to said upright U-shaped studs adjacent to said front side thereof of the backing members, thereby covering said studs and said backing members.

56. (Original) The apparatus of claim 48 wherein said horizontal member comprises a fire resistant material for creating a fire break.

57. (Original) The apparatus of claim 56 wherein said horizontal member and said studs are made of metal.

58. (Original) The apparatus of claim 57 wherein said metal is galvanized steel.

59. (Original) An apparatus comprising:

a first upright U-shaped stud;

a second upright U-shaped stud to one side of and spaced from said first U-shaped stud;

a third upright U-shaped stud to one side of and spaced from said first and said second U-shaped stud;

a first backing member having a first end, a second end, a top, a bottom, a first side and a second side, said first backing member being disposed between said first and second studs;

a second backing member having a first end, a second end, a top, a bottom, a first side and a second side, said second backing member being disposed between said second and third studs;

a hinge operatively attached to said first side of said first and second backing members for permitting said second backing member to pivot with respect to the first backing member between a first position wherein the first side of each of said first and second backing members are substantially in the same plane and a second position whereby the first and second backing members are not in the same plane, whereby said first backing member can be placed between a first and second adjacent vertical stud, the second backing member pivoted with respect to the first backing member, and then pivoting said second backing member to a position to be disposed between said vertical stud and said third stud adjacent to said second stud whereby said second end of said first

backing member is adjacent to and on one side of the first stud and the first end of the second backing member is adjacent to and on the other side of said first stud.

60. (Original) The apparatus of claim 59 including:

a third backing member having a first end, a second end, a top, a bottom, a first side and a second side;

said third backing member having a vertical groove in the said first side thereof for receiving a flange of a U-shaped stud, said groove being at least partially covered by said hinge when the second and third backing members are in the first position thereof; and

a second hinge operatively attached to said first side of said second and third backing members for permitting said third backing member to pivot with respect to the second backing member between a first position wherein the first side of each of said second and third backing members are substantially in the same plane and a second position whereby the second and third backing members are not in the same plane, whereby said second backing member can be placed between said second and third adjacent upright U-shaped studs, the third backing member pivoted with respect to the second backing member to the second position, and then pivoting said third backing member to the first position thereof to be disposed between said third upright U-shaped stud and a fourth upright U-shaped stud closer to said third upright U-shaped stud than to said second upright U-shaped stud, whereby said second end of said second backing member is adjacent to and on one side of the third upright U-shaped stud and the first end

of the third backing member is adjacent to and on the other side of said third upright U-shaped stud.

61. (Original) The apparatus of claim 60 wherein each of said backing members has a vertical groove in said first side thereof adjacent each end thereof whereby a flange of an upright U-shaped stud can extend therein.

62. (Original) The apparatus of claim 59 wherein each of said backing members has a vertical groove in said first side thereof adjacent each end thereof whereby a flange of an upright U-shaped stud can extend therein.

63. (Original) The apparatus of claim 60 including a horizontal member extending between said first and second upright U-shaped studs and on top of said first backing member, said horizontal member having a cross-section like one of said studs including a pair of flanges and wherein each of said backing members has a horizontal groove in said first side thereof whereby a flange of said horizontal member can extend therein.

64. (Original) The apparatus of claim 59 including a horizontal member extending between said first and second upright U-shaped studs and on top of said first backing member, said horizontal member having a cross-section like one of said studs including a pair of flanges and wherein each of said backing members has a top horizontal groove adjacent the top and a bottom horizontal groove adjacent the bottom in said first side thereof whereby a flange of said horizontal member can extend therein.



65. (Original) The apparatus of claim 64 including a top backside backing member substantially identical to said first backing member, said backside backing member being disposed between said first and second upright U-shaped studs and one flange of said horizontal member extends into the top horizontal groove of the first backing member and the other flange of said horizontal member extends into the top horizontal groove of the backside backing member.

66. (Original) The apparatus of claim 65 including a bottom backside backing member substantially identical to said first backing member, said backside backing member being disposed between said first and second upright U-shaped studs and one flange of said horizontal member extends into the bottom horizontal groove of the first backing member and the other flange of said horizontal member extends into the bottom horizontal groove of the bottom backside backing member.

67. (Original) The apparatus of claim 64 including a bottom backside backing member substantially identical to said first backing member, said backside backing member being disposed between said first and second upright U-shaped studs and one flange of said horizontal member extends into the bottom horizontal groove of the first backing member and the other flange of said horizontal member extends into the bottom horizontal groove of the backside backing member.

68. (Original) The apparatus of claim 59 wherein said hinge is comprised of a flexible sheet.

69. (Original) The apparatus of claim 68 wherein said sheet is comprised of metal.

70. (Original) The apparatus of claim 59 wherein said hinge is comprised of a flexible metal sheet having projections therein extending into said backing members for holding the flexible sheet metal hinges attached to said first and second backing members.

71. (Original) The apparatus of claim 70 wherein said backing members are constructed of wood.

72. (Original) The apparatus of claim 59 wherein sheet rock is attached to said upright U-shaped studs adjacent to said front side thereof of the backing members thereby covering said studs and said backing members.

73. (Original) The apparatus of claim 65 wherein said horizontal member comprises a fire resistant material for creating a fire break.

74. (Original) The apparatus of claim 73 wherein said horizontal member and said studs are made of metal.

75. (Original) The apparatus of claim 74 wherein said metal is galvanized steel.

76. (Original) The apparatus of claim 75 wherein sheet rock is attached to said studs and covers said backing members.

77. (Original) The apparatus of claim 43,  
wherein said first second and third upright U-shaped studs are equidistantly spaced from adjacent studs and an additional upright U-shaped stud that is not spaced equidistantly from one of the first and third upright U-shaped studs; and  
a corner wall backing member having a first end, a second end, a top, a bottom, a first side and a second side, said corner wall backing member being disposed between said first and second studs, a flange operatively attached to and extending in a plane substantially the same or parallel thereto as the plane of the first side of the backing member, said flange being attached to said second upright U-shaped member and said first end of said backing member being attached to said first upright U-shaped member.

78. (Original) The apparatus of claim 60 wherein the first said hinge and second hinge are formed of one piece of flexible sheet metal which extends across said first, second and third backing member.

79. (Original) The apparatus of claim 77 wherein said flexible sheet of metal extends beyond from said first stud to said fourth stud whereby said flexible sheet can be attached to said first, second, third and fourth studs.

80. (Currently amended) An apparatus for providing backing for studs in a wall, said backing apparatus comprising:

- a first backing member having a first end and a second end;
- a second backing member having a first end and a second end; and
- a first substantially planar structure operatively attached to said first and second backing members for spacing the second end of the first backing member a predetermined distance from the first end of the second backing member whereby the first backing member can be placed between a first upright stud and a second upright stud spaced from the first upright stud and whereby the second backing member can be disposed between the second upright stud and a third upright stud spaced from the second upright stud such that the second end of the first backing member is adjacent to and on one side of the second upright stud and the first end of the second backing member is adjacent to and on another side of the second upright stud.

81. (Currently amended) The apparatus of claim 42 further comprising:

- a third backing member having a first end and a second end; and
- a second substantially planar structure operatively attached to the second and third backing members for spacing the second end of the second backing member a

predetermined distance from the first end of the third backing member whereby the second backing member can be placed between the second upright stud and the third upright stud such that the third backing member can be disposed between the third upright stud and a fourth upright stud spaced from the third upright stud and whereby the second end of the second backing member is adjacent to and on one side of the third upright stud and the first end of the third backing member is adjacent to and on another side of the third upright stud.

82. (Previously presented) The apparatus of claim 81 wherein the first structure is comprised of metal.

83. (Previously presented) The apparatus of claim 80 wherein the second structure is comprised of metal.

84. (Previously presented) The apparatus of claim 80 wherein the first and second backing members are constructed of wood.

85. (Previously presented) The apparatus of claim 81 wherein the first, second and third backing members are constructed of wood.

86. (Previously presented) The apparatus of claim 80 wherein sheet rock is attached to the upright studs adjacent to a front side thereof of each of the first and

second backing members, thereby covering the first and second upright studs and the front sides of the first and second backing members.

87. (Previously presented) The apparatus of claim 80 wherein the first and second upright studs are made of metal.

88. (Previously presented) The apparatus of claim 87 wherein the first and second upright studs are U-shaped.

89. (Previously presented) The apparatus of claim 87 wherein the metal is galvanized steel.

90. (Currently amended) A wall comprising:  
a first upright stud;  
a second upright stud to one side of and spaced from the first stud;  
a third upright stud to one side of and spaced from the second stud;  
a first backing member disposed between the first and second studs;  
a second backing disposed between the second and third studs; and  
a first substantially planar structure operatively attached to the first and second backing members and spanning therebetween, said first structure further being attached to at least one of the first, second or third upright studs.

91. (Currently amended) The wall of claim 90 further comprising:  
a fourth upright stud to one side of and spaced from the third stud;  
a third backing member disposed between the third and fourth upright  
studs; and  
a second substantially planar structure operatively attached to the second  
and third backing members and being further attached to at least one of the third and  
fourth upright studs.

92. (Previously presented) The wall of claim 90 wherein the first  
structure is attached to the second stud.

93. (Currently amended) The wall of claim 92 wherein the first  
structure is also attached to the first stud.

94. (Previously presented) The wall of claim 91 wherein the second  
structure is attached to the third stud.

95. (Previously presented) The wall of claim 53 wherein the second  
structure is also attached to the fourth stud.

96. (Currently amended) A wall comprising:

- a first upright stud;
- a second upright studs supported in spaced apart relation to the first upright stud to define a first space therebetween;
- a third upright stud supported in spaced part relation to the second upright stud to define a second space therebetween;
- a fourth upright stud supported in spaced apart relation to the third upright stud to define a third space therebetween
- a first backing member sized to be received in the first space and extend between the first and second upright studs;
- a second backing member sized to be received in the second space and extend between the second and third upright studs;
- a third backing member sized to be received in the third space and extend between the third and fourth upright studs; and
- a substantially planar spacer attached to the first, second and third backing members and at least one of the first, second, third, and fourth upright studs such that the first backing member is supported in the first space and the second backing member is supported in the second space and the third backing member is supported in the fourth space.

97. (Previously presented) The wall of claim 96 wherein the spacer member is attached to each of the first, second, third and fourth upright studs.